

REMARKS

In response to the restriction requirements by the Examiner, applicant elects the species group I comprising claims 1-21, 27-35, 39-70, 74-75, 94-111, 117-125, 129-160, and 164-165. It is understood that if a generic claim is allowed, the additional species will be considered, per the Examiner's statement. Applicant has also added new claims 194-203 which depend from claim 1 to further protect applicant's invention. Also a new independent claim 204 has been added that tracks the limitations of claim 1, but in program product format, and a new independent claim 205 has been added to further protect the invention.

In response to the objection to the specification, the reference to Fig. 3 has been changed to refer to Figs. 3A and 3B. Accordingly, this objection has been obviated.

In response to the Examiner's double-patenting rejection, applicant intends to amend and cancel selected claims in those other pending patent applications when they are taken up for examination with a view to what claims are restricted by the examiner in this application. Thus, a terminal disclaimer is not needed at this time.

Claims 1-21, 27-35, 39-70, 74-75, 94-111, 117-125, 129-160, and 164-165 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Walker, U.S. 6,434,534 in view of well-known data mining/incentive targeting methods contained in nineteen separate and independent references listed in the Examiner's Office Action. This rejection is respectfully traversed and reconsideration thereof is requested.

The Examiner is thanked for providing a detailed explanation of her thinking regarding various ways that Walker and the other references may be interpreted. The Examiner states that Walker is sufficient by itself to reject independent claim 1 based on the Examiner's interpretation of the claim language, which she states "does not properly convey" what applicant has argued in the application to make special, and that it does not "necessarily rule out the gathering of purchase histories of 'within the system itself'". The examiner further states "Applicant is required to make appropriate amendment to Claim 1 to properly reflect the invention as argued in the

Petition to Make Special, that is, purchase records are submitted directly by the buyer entity."

However, in the Application to Make Special applicant does not argue that the purchase records must be "directly submitted". Rather, applicant argues that the proof of purchase records "should be provided by the user (the buyer entity) so that the buyer entity controls the initial submission of the proof of purchase records, and so that the buyer entity does not need the specific consent or continued active cooperation of the seller to submit the purchase record into the system of the present invention." (p.4 next to last paragraph of Application to Make Special). Further, the Petition continues by explaining: "The buyer entity receives these purchase records because he is entitled to such records, and the records are often provided to him/her in digital form for his/her convenience and because that is the standard expected today of many credit card and other companies". As will be evident from discussion later in these Remarks, the purchase records may be provided directly or indirectly from the buyer entity.

At the same time, in order to advance the prosecution of the present patent application, although we believe that the words "receiving [...] from each of a plurality of buyer entities" reflect the above meaning that there must be a transfer of the records or information therefrom from outside the system directly or indirectly from the buyer entity, we have, without prejudice to other claims, included the words "said purchase record or information verifiably derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system", to properly reflect that purchase records are provided from outside the system for the embodiment of the invention in claim 1 and claims dependent thereon.

The Examiner further refers to a substantial number of items of prior art and argues obviousness of previous claim 1. We also disagree with that interpretation, in part for reasons stated in this response, but have included substantial restrictions to claim 1, to further accentuate and delineate the differences of the present invention relative to claim 1. Again, these restrictions are without prejudice to other claims and other species in parallel applications, and we believe them to be unnecessary for the

patentability of the present invention, but we have included them in the claim 1 embodiment to advance the rapid prosecution of the present application.

Various amendments have thus been made to claims 1 and 94. Each of these amendments will be discussed below.

In the claimed embodiment, the present invention is defined as a method and system and program product for creating a working forum or marketplace which merchants and other advertisers use to acquire potentially valuable buyer entities as new customers or as significantly better customers.

The invention addresses a fundamental and unmet need of merchants/advertisers: It is widely known that a relatively small number of buyers account for the lions share of the revenues and profits of most companies. As stated above, it is therefore crucial for an advertiser to direct his customer acquisition efforts at those buyer entities that are potentially the most valuable customers. However, the prior art provides advertisers with few ways of identifying prospective new customers with verifiably attractive purchase histories, nor does it offer an effective method of communicating with such prospects without having identified them by name. Importantly, there is no cost effective way to send bull's-eye communications to such prospective new customers, which are highly relevant based on their demonstrated previous purchase interests, in a way to motivate them to respond and to continue to respond, in part, because they understand and expect these communications to be highly relevant to them personally, and to contain particularly lucrative offers, but to also obviate permission issues. (Note that we define "new customers" in this context broadly as customers who have not previously purchased products with an advertiser or who have done so only infrequently, as compared to other purchases made by that customer in the same category.)

A product or service sales transaction requires the participation of only two parties: the buyer and the seller. Information on the purchases that buyer entities make with companies, (and/or the privilege of communicating with and sending preferential contingent incentive offers to such buyer entities) can therefore only be obtained either from these buyer entities, or from the companies that sold them

products and services. However, there continue to be significant barriers and problems relating to third parties obtaining information from either sellers or buyers.

An advertiser can generally not obtain reliable and relevant purchase information from competing sellers, because these merchants will not want to make their customer lists available to their immediate competitors. Similarly, a retailer will likely refuse payments made with the card of a credit card company which forwards that retailer's transaction data to competitors. For example, if the Discover credit card division sends to Macy's all information relating to the purchases made with Discover cards at Nordstrom's, including the names and addresses of the customers that made these Nordstrom purchases, Nordstrom would most probably refuse to continue to accept Discover cards for payments. Furthermore, merchants can generally not sell the individually identifiable information of consumers without obtaining the permission of those consumers (or informing those consumers of their practices in this regard, and allowing those consumers to opt-out). This is because of privacy laws, such as the Gramm-Leach-Bliley Act, and public pressure. From the consumer standpoint, consumers will only rarely let a company – even one that they trust – resell their personal transaction data, because they do not know nor can they control how their information is used by the party or parties to whom their data is sold. Furthermore and importantly, no single seller can provide a comprehensive profile about a particular buyer entity because that seller generally only possesses a fraction of that buyer entity's purchase history – records of the transaction that the buyer entity made with that seller.

From the advertiser's standpoint, it is as difficult to obtain reliable and relevant purchase information directly from buyer entities as it is to obtain such information from sellers. The advertiser faces significant problems in trying to purchase the buyer entity information directly from the buyer entity itself. First, a fundamental conundrum (the valuation problem) arises when a merchant attempts to purchase buyer entity information for cash; namely the merchant cannot cost-effectively pay cash for information until the merchant has seen and evaluated the information and determined its value (which varies widely among buyer entities). But then the merchant has the information and the buyer entity's identity! Second, the actual value of a buyer

entity's information further depends on an unknown variable; namely, the willingness and propensity of that buyer entity to actually respond to any promotions that are later sent to that buyer entity on the basis of the information it has provided. However, this propensity to respond to future promotions is not known at the time that the information is purchased. Third, buyer entities will not trust most advertisers with their individually identifiable transaction information. Fourth, although buyer entities are sometimes willing to answer questions about their purchase behavior in exchange for a reward, such information is known to be highly unreliable because very few consumers answer these questions truthfully. Consumer answers would become even less reliable if they knew that the answer they give to questions would be routinely used to give better rewards to some consumers than to others, because consumers would then have an incentive to lie about their true purchase behavior.

At the heart of the claimed embodiment of the present invention –and the marketplace it creates – is a fundamental trade between buyer entities and advertisers, in which buyer entities provide advertisers with the benefit of the use of their third-party purchase records (“receiving directly or indirectly from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom”), and in which buyer entities receive contingent incentives which carry rewards on “preferential” terms, and which emanate directly or indirectly from these advertisers in return. The key to making such a trading system work is to motivate the buyer entity itself, to provide the information in its control voluntarily to the system. The second key is that the consideration offered to the buyer entity cannot be direct cash paid on receipt of the information because the information has not yet been valued. The third key is that the information must come in the form of verified transaction records. Also, the incentives that are provided should carry rewards with “preferential” terms, meaning that they are generally not available on equally attractive terms to the public at large which has not provided information to the system (a public which is therefore not entitled to the same consideration and which comprises buyers that are less attractive prospects). A further key, is that the direct or indirect provider of the transaction information, which is the buyer entity in the present inventive system, is compensated with incentives which must be “contingent”, in the sense that the reward promised in the incentive offer is only provided if the buyer entity takes a

further action that relates to the purchase of a product offered by a participating advertiser. Further the system should allow third party advertisers with business activities that are different from those carried out by the system itself, to advertise their products and services and be a source of contingent incentives ("...wherein there is at least one different preferential contingent incentive from each of a plurality of the different third party advertisers." This is important in order to create a forum that will make it appealing to buyer entities to participate, and thereby potentially receive multiple incentives from multiple third party advertisers, which will likely be in different industries. Note that in one embodiment, individual buyer entities can use their purchase histories to have a large number of merchants/advertisers compete for their unique business, especially for those products and services a given buyer entity buys most frequently, without having to disclose their identifiable purchase history to anyone except to one trusted corporate or electronic intermediary, which need not be the system itself.

Advertisers will therefore use the invention to direct especially valuable (and costly) promotions to selected buyer entities whose purchase records and whose other information indicates that they are frequent and heavy buyers of the products that the advertisers sell. Advertiser will be able to use the present inventive system to compensate a buyer for the actual or psychological "switching cost" that the buyer incurs when he/she is making a trial purchase, or when he/she otherwise considers making the advertiser a new or a more frequent and regular supplier. The advertiser could not cost-effectively afford to make these promotions available to everyone, because doing so would entail attracting "opportunity seekers" that take advantage of the initial promotion without having a similar longer-term purchase interest, and without generally having the same potential to become customers with a high life-time value to the advertiser. In turn, buyers use their past purchase histories to receive valuable promotions for those products that they purchase the most. Their purchase histories are being used by the system to meet the needs of advertisers, but they are not transferred in the claimed embodiments into the possession of these advertisers in an identifiable fashion. In this way, the system facilitates the accumulation of a universe of incentives from competitors in the same industry and in some embodiments across multiple industries. This potential cross industry universe of incentives provides

a substantial and ever-increasing motivation for individual buyer entities to provide their purchase data, and to continue to update that purchase data over time. Note that an unusual effect of this system and method is that it facilitates advertisers targeting their most attractive and expensive promotions to buyer entities who are frequent customers of their competitors (who obviously would not willingly provide such data for this purpose.)

As we have stated in the specification as well as in the Application to Make Special, and as we continue to state below, this invention, as defined in revised claim 1, is fundamentally different from the prior art in various aspects of the method, system and program product that it necessarily entails, and in the purpose it consequently achieves. We have amended claim 1 to specifically mention, and accentuate, those elements of the claimed embodiment of the invention that separates it, we believe, even more clearly from the prior art. The invention contains at least six distinctive and required elements, which we have briefly mentioned above, each of which are defined more specifically and examined below.

These six distinctive elements are as follows:

1. That there is a transfer of transaction records or information derived from transaction records into the system from outside the system. (This element is hereafter also referred to as "element #1" or "the first element".)
2. That the information comes "*directly or indirectly*" from the buyer entity (element #2" or "the second element")
3. That the information comprises "*third party purchase records or information derived from therefrom.*" ("element #3", "the third element")
4. That the incentive that is being offered promotes the product of a third party with a distinct business activity. ("element #4", "the fourth element")
5. That the buyer entity, which is the provider of the above mentioned transaction records, must be provided with at least one from a plurality of necessarily "*contingent [and] preferential*" incentives. It will be the value of contingent incentives (offers of a "benefit [only] in exchange for at least one action associated with a possible purchase of at least one" product or service of an advertiser) and not any earlier non-contingent cash payment,

which will normally be the main and primary consideration that a buyer entity that responds to such incentives receives as a result – and in return – for its earlier (and in many cases) continued provision of purchase records to the system. These incentives are not only contingent, they must also be preferential. They offer a “benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on [same or better] terms.” In addition, the discriminatory nature of the incentives rests on purchases that are shown to have been made by the buyer entity with merchants other than the advertiser who offers the incentive (or on whose behalf the incentive is offered.) Claim 1 includes “making or helping make [...] at least one discriminatory decision” [associated with the incentive] “said discriminatory decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored data relating to purchases made by said buyer entity with merchants other than the third party advertiser that is associated with the incentive”. (“element #5”, “the fifth element”)

6. That the incentive for the advertiser’s product or service is offered to the buyer entity, *“without transferring to said third party advertiser directly or indirectly any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity.”* (“element #6”, “the sixth element”)

As we will show below, none of the many cited references, neither those by Godin, nor by Walker nor by the other authors mentioned in response by the examiner in her response to our previous claim 1, or otherwise cited in the examiner’s office action, contain a significant number of the above elements or any suggestion to combine that reference with other references.

In support of our application, we are submitting several affidavits from some of the nation’s leading advertising, retailing and direct marketing experts, including Professors John Deighton and Rajiv Lal of the Harvard Business School, Chaz Berman, the former Chief Operating Officer of MyPoints, long considered the leading incentives

company in the United States, and Seth Godin, who is himself the author of prior art references which have been mentioned prominently by the examiner in her initial rejection of our originally filed claim 1. An affidavit in support of our application has also been provided by the following senior executive who has played a leading role in the interactive marketing and technology arenas: Pieter Hartsook, formerly Vice President of Apple, Cybergold and MyPoints. Remarkably, every person whom we have asked to evaluate our patent application and to consider submitting an affidavit in its support, has chosen to submit such an affidavit.

These affidavits, all of which are attached to the present reply, speak for themselves, reflecting the strong convictions of the affiants with respect to the novelty, usefulness and nonobviousness of the claim 1 embodiment of the present invention.

The above combination of elements that are necessary to create the synergy for the possibility of an ever-increasing number of third party advertisers that provide a wide variety/universe of across-industry incentives and/or across multiple industries incentives in combination with the transfers from outside the system into the system of buyer entity purchase records or information derived therefrom directly or indirectly from the buyer entities themselves, and with the provision of the incentives requiring that two conditions be met, namely that the buyer entity perform an action associated with the possible purchase of an item, and that the buyer entity have at least initially provided directly or indirectly the purchase records or information derived therefrom to the systems is not present in the prior art.

To provide further details on these elements, the first distinctive element of claim 1 is that there is at least one transfer of transaction records into the system. The amended claim 1 states "receiving directly or indirectly [...] at least one respective third party purchase record or information verifiably derived therefrom, said purchase record or information verifiably derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system." The present claimed embodiment of the invention is based on data transfers into the system, because its purpose is to make the use (but not unrestricted access)

of the data available to new parties, which previously or otherwise would not necessarily have been able to avail themselves of this data. The combination of this element with the other distinctive elements of claim 1 allows advertisers to benefit from the use of new data previously not present in the system. It solves an important unsolved marketing problem: advertisers generally have access to the records of purchases that their own customers have made *with them* (and they often use these purchase records to direct special offers and resources to retain their most loyal and best customers). But they have little reliable information on the purchase histories of those buyers, who have not yet made purchases with them, or who have made purchases with them only relatively infrequently and who make the majority of their purchases from a competitor. The present invention allows them to avail themselves of the use of these purchase histories for participating buyer entities. The revised claim 1 further lists the step of "storing said records or information verifiably derived therefrom;" This includes information contained in said records and information referring or helping catalogue or track a particular record or set of records.

The second distinctive element of claim 1 is that the information is received *from buyer entities*. In particular, claim 1 states "receiving *directly or indirectly from each of a plurality of buyer entities...*" By "indirectly receiving" we mean that the information is received in one of the two following ways:

- (a) by in a first step directly receiving from the buyer entity the information and authorization needed to gain access to at least one account of the buyer entity's third party (so that it is verifiable) accounts and not being prohibited from obtaining purchase records of the buyer entity from these third party accounts or deriving information therefrom, and in a second step obtaining at least one purchase record of that buyer entity from said at least one account or deriving information from the account;
- (b) by obtaining information from or through another party or apparatus (or through several parties and apparatuses) that may or may not be external or independent from the system, said information having first been obtained by that (at least one of these) party(ies) or apparatus(es) either directly from the buyer entity or

as described in (a). (In one embodiment, that transfer will have been either authorized by the buyer entity, or the information will have been stripped of individually identifiable information.) (See for instance, paragraph [0159] of the specification).

As stated above, this conforms with what we have explained in our specification, as well as in the Application to Make Special, which states that that the proof of purchase records "should be provided by the user (the buyer entity) so that the buyer entity controls the initial submission of the proof of purchase records, and so that the buyer entity does not need the specific consent or continued active cooperation of the seller to submit the purchase records into the system of the present invention." (p.4 next to last paragraph of application to make special). Further, it was explained: "The buyer entity receives these purchase records because he is entitled to such records, and the records are often provided to him/her in digital form for his/her convenience and because that is the standard expected today of many credit card and other companies".

The preceding definition of the direct or indirect submission of purchase records by the buyer entity, however leaves the question open of whether it covers the mechanism for submission of purchase records that is explained in paragraph [0158] of the specification, where the buyer entity simply uses a credit card that has been issued by the system to provide the system access to its purchasing records. Although we believe that the patentability of the invention extends to the use of this data provision mechanism, we are eliminating it as a source of concern for the evaluation of the embodiment of the invention represented by claim 1 and will cover this aspect in other co-pending applications. We have therefore amended claim 1 to read "receiving directly or indirectly from each of a plurality of buyer entities at least one respective third party purchase record or information verifiably derived therefrom, *said purchase record or information verifiably derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system.*" (Emphasis added.) We are thus defining the direct or indirect submission by the buyer entity in the embodiment described by claim 1 of this application as

excluding that particular mechanism, so that the use of purchase records is not covered by claim 1 if these records or data derived from these records are in the system solely and invariably as a result of the buyer entity's use of a single credit card, said card having been originally and primarily issued by the system itself.

Specifically, a credit card issuing bank would not be implementing the invention embodiment described in claim 1 if it does not receive any purchase record information on a particular buying entity except those contained with respect to payments made with a single credit card issued by that bank. However, a credit card issuer would be implementing the inventive embodiment described in claim 1, if it were to perform the steps and elements of claim 1 with respect to a buyer entity and also supplement the purchase records it has in the system that is being used to administrate a particular credit card for a buyer entity with other purchase records, including with purchase records emanating from the use of another credit card which was issued by a separate bank or financial institution, or which was issued by a separate business unit within the same bank.

The purpose of the second element is to provide advertisers not only with new data, but with data from a new source, which importantly is a source that allows them to have access to the use of the data that many advertisers cherish the most: records of purchases made by buyer entities with their direct competitors. As previously explained, information on purchase records can only be obtained from either the seller or the buyer of a transaction, or a third party that operates only through the authorization of the buyer or seller. If the information comes from the seller, the seller surely would not make this information willingly accessible to a competitor, especially not for the purpose of luring the seller's own customers away by means of attractive incentives!

The third distinctive element of claim 1 is that the information that is being provided by buyer entities comprises third party purchase records or information derived therefrom. Information provided by a given buyer entity is often unreliable, especially if that buyer entity knows that the information will be used for the selective offering of preferential incentives, unless that information comprises a record that has been issued or that has been confirmed by a third party. Past purchase information is

considered by the inventor to be a far more reliable indicator of future purchases than demographic information, and past purchase records are far more reliable than answers to questions about purchase habits (see paragraph [0116] of the specification, for example).

The fourth distinctive element of claim 1 is that the incentive that is being offered promotes the product of a third party with a distinct business. In particular, claim 1 refers to " "with each incentive associated with at least one of said items and associated with at least one of the third party advertisers, wherein there is at least one different contingent incentive from each of a plurality of the different third party advertisers," and the items are clarified as follows "for a plurality of product or service items offered for sale, wherein different items in said plurality of items are either manufactured or marketed or distributed or provided by different third party advertisers in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution or provision is not carried out by the system in the ordinary course of business." This element extends the use of the system to advertisers of products and services, whose the normal day-to-day business activities are generally conducted outside of the system. The sales data of these advertisers do not normally flow back into the system, and are not available to the system in the ordinary course of business. In fact, in one embodiment of the present invention almost universal access to non-identifiable information is allowed to a variety of different advertisers in different industries and segments of the marketplace for the purpose of directing lucrative promotions at those buyer entities that they consider to be the best prospects.

The fifth distinctive element of claim 1 is that the offer that is being presented to the buyer entity comprises a necessarily "contingent" [and] "preferential" incentive. When we refer to a "contingent incentive", we mean that the buyer entity obtains the reward/benefit offered by a particular incentive only if it takes a further action that either relates to the actual or potential purchase of the promoted product or service or which otherwise strengthens or is likely to strengthen the relationship of the buyer entity with the advertiser. Examples of "contingent" incentives include but are not limited to a discount, a good price for a particular product or service, a free or

attractively priced service or benefit whose use is likely to make the buyer entity more familiar with a particular product or offering, the provision of information about a product or service that is particularly convenient and appealing to the buyer entity, or an offer to receive cash or something of value for viewing or responding to an advertisement or a questionnaire.

Offering buyer entities contingent incentives in exchange for third party purchase records or other individual data is inherently different and more effective than offering cash or something else that is of immediate liquid value, and that is not contingent on performing one of the above-described actions. This is because the value of the information provided by the buyer entities for purposes of promotional marketing depends on the willingness and propensity of the buyer entity to consider and respond to the promotional offers that are being sent to the buyer entity, and which have been enhanced and tailored with the use and analysis of that buyer entity's information! The provision of proprietary purchase records by a buyer entity with an only slightly above average purchase record with respect to a particular product, with that buyer entity being willing to respond to incentive offers for that product, might well be more valuable than the provision of another buyer entity's purchase records, which might have a far above average purchase record, but which is invariably unwilling to view or respond to promotional offers. By offering cash, or something else that is of immediate and normally non-contingent value -- such as frequent flyer miles or points that can be redeemed against an award without necessarily requiring a further purchase or other action in exchange for such incentives, the advertiser would generally overpay (and expend unnecessary monies on) those buyer entities who are unwilling to respond to promotions, and underpay those who are willing to respond to promotions. By offering "contingent" incentives via the present inventive system, those buyer entities who are willing to respond to promotions will be most attracted to the system, most likely to submit *"at least one respective third party purchase record or information verifiably derived therefrom"*, and ultimately most likely to participate in a way that makes the use and analysis of such information beneficial to the other system participants.

As stated above, the fifth distinctive element of claim 1 also includes the requirement that the incentives be "preferential". It promises a "benefit not normally

and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action." *At least one decision relative to* multiple incentives is made, and at least one incentive is offered to the buyer entity.

We now define the above quoted language with respect to preferential incentives in more detail. By "benefit" we mean, what the buyer entity is promised, and receives, once it performs the required contingent action of an incentive. For instance, if the contingent incentive offered by the present inventive system ("system incentive") is a 20% discount on the purchase of the next domestic airline ticket with Delta Airlines ("Delta") valid for 30 days, the required contingent action is the purchase of the ticket within 30 days of the day of the offer, and the benefit is a 20% reduction in the price.

By "not normally and publicly accessible to said buyer entity on terms, that are at least objectively equivalent", we mean that the following holds true for the buyer entity AND for at least several other buyer entities located in the same geographic region: these buyer entities cannot easily have access to the same incentive on the same terms or on objectively superior terms outside the system or separate from those incentives provided by or with the help of the system, and will likely not find that incentive outside the system or separate from those incentives provided by or with the help of the system, even if they spend several minutes looking for it; (The reason we mention the geographic region is because buyer entities are often excluded from being eligible for certain incentives based on their geographic location. The "preferentialness" and discriminatory nature of the superior incentives of the present inventive system extends, however, beyond such geographic location, and normally relates to the estimated potential life-time value of a buyer entity to a particular advertiser, as derived in part from that buyer entity's verified purchase history.)

With respect to the above example, if any buyer entity with access to an internet connection and a credit card can get a 20% or better discount on the next purchase of a domestic ticket within 30 days by visiting the home page of the Delta website (or by clicking the "special deals" tab on the home page of the Delta website), the incentive is not preferential. An "at least objectively equivalent" or "objectively

superior" incentive is defined as having to meet 2 conditions: (1) the required action of the incentive, must be the same or "pareto superior" -- i.e. it must be the same or virtually always preferable for the buyer entity no matter what the subjective preferences of a particular buyer entity might be. For instance, if the required action of the system-generated incentive in the above example is a purchase within 30 days, if the required action is a purchase within 45 days (and there are no other requirements different from those imposed by the system incentive), that action is "pareto superior" or "objectively superior" in that it is (virtually) always preferable or at least equivalent to the 30-day purchase requirement. (2) the benefit in the incentive must also be either the same or "pareto superior", meaning the benefit is the same or always better for the buyer entity no matter what the subjective preferences of a particular buyer entity might be. If the widely and publicly available discount of the alternative (non-system) incentive is 25%, the benefit is objectively superior to the 20% available from the Delta website and will be preferable to virtually all buyer entities. If the required action is identical or also objectively superior, the alternative incentive is objectively superior and the system incentive is not a preferential incentive. On the other hand, if the benefit is a discount of \$200, whether that benefit is preferable to the 20% discount of the system incentive will depend on the particular buyer entity (no "apples to apples" comparison can be made), and the \$200 discount is not objectively superior.

The meaning of the words "terms... which do not include material conditions that are different from said at least one required action" can be illustrated by continuing with the same example: Suppose there is an incentive outside the system that's being offered, that is greater than 20%, valid for 45 days, but that requires that the buyer entity does something that goes beyond simply making a purchase within the next 45 days, and that is "material" (i.e. not just visiting a website). For instance, if may be possible to obtain a 30% discount with the Priceline service for a flight within 45 days by bidding a particular price, and foregoing the flexibility of being able to chose a particular time of departure or flight route. Such an incentive, even if it is publicly and widely available, will not make the 20% system incentive NOT preferential, because the system incentive does not require a similar loss of flexibility.

The reason that many of the incentives offered to buyer entities will be offered on superior terms is that it will be in the advertiser's interest to offer such preferential terms to select buyer entities with attractive purchase histories. An advertising merchant might not be willing to sacrifice all or even part of his gross profit margin to incent the trial purchase by a customer who purchases the advertiser's type of product only infrequently, but it might well be in his/her interest to compensate those customers for their switching and trial costs who are more likely to often return, if they are satisfied with their trial purchase.

It is very important to note that the preferential nature of the incentives that are being provided by the system is in marked contrast to a normal customized advertising or content distribution system, which might offer some advertisements and some promotions to some customers based on the purchase history or other information of these consumers, but which does not offer preferential incentives. The purpose of such a customized advertising system, such as the banner ad distribution system used by Doubleclick, which serves banner ads based on a user's browsing history, is not to offer a reward to a consumer with a particular browsing history that is offered on better terms than those that are available to other consumers, but simply to reduce the cost of showing such an ad (i.e. of distributing advertising content) by presenting it to a limited group. Moreover, the consumer presented with the ad normally has access to the same products advertised in other banner ads, and on the same terms offered to those who see these banner ads. By contrast, to implement a system in accordance with the claimed invention that not only offers customized content but preferential and superior incentives, it is important that the offer is tied to significant verifiable purchase information which justifies the provision of such unusually costly superior incentives.

In addition to the preferential nature of the incentive or incentives provided by the system, a key feature of the system, which is also an essential part of the fifth distinctive element of the claim 1 embodiment of the present invention is that the decision is discriminatory. Claim 1 includes "making or helping make [...] at least one discriminatory decision" [associated with the incentive] "said discriminatory decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored data relating to purchases made by said buyer entity with merchants other than the third party advertiser that is associated with the

incentive". Not only is the incentive not publicly available to virtually all other buyer entities in the same geographic region, the discrimination in favor of the buyer entity that receives such a preferential incentive which is not available to everyone from or with help of the system, must be based on the purchases that the buyer entity made with merchants other than the advertiser, who offers the incentive or on whose behalf the incentive is being offered to the buyer entity.

For instance, to continue with the preceding example, absent the above claim language on the discriminatory nature of the incentive, one could argue that a Delta frequent flyer who receives 10,000 frequent flyer miles in return for taking a particular Delta flight is the recipient of a preferential incentive. Although this particular incentive may appear to be easily accessible to everyone willing to take a particular flight on Delta, receiving the benefit not only requires that the above mentioned flight was taken, it also normally requires that the flyer previously signed up for the Delta frequent flyer program. Thus a flyer who did not signed up for the Delta frequent flyer program, will not get the 10,000 frequent flyer miles, even though he performs the same required action (taking the particular flight) than someone who is eligible for the benefit. The incentive therefore could be called "preferential". However, the incentive is not discriminatory as explained and defined in our claim language, because the discriminatory decision (the provision of frequent flyer miles to some who took the particular Delta flight and not to others) is based on something other than stored data, derived or contained in purchase records received from the buyer entity which pertain to purchases made by the buyer entity with respect to other merchants.

The specification offers multiple references to the provision of contingent preferential incentives, based on the purchases made by the buyer entity to whom the incentive is offered with other merchants. See for instance paragraphs [0006], [0118], [0127], [0128] and [239] to [247].

Claim 1 further comprises the steps: "making or helping make with respect to at least one of said buyer entities, based at least in part on said records or on said information, at least one discriminatory decision associated with the offering of at least one from among a plurality of different preferential contingent incentives," and "offering or facilitating the offering of at least one of said incentives to said one buyer entity".

Example 1 Implementation: The “making or helping make” step may comprise the analysis and review of a buyer entity’s individual and individually identifiable information performed by the system based on the needs of the advertiser, and may result in the generation of a score or other information which may help in making the discriminatory decision. In a similar implementation, it may also be possible for the system to not have the identity of the buyer entity, but to receive the information through an intermediary on behalf of the buyer identity with only identity-stripped purchase record information as well as a membership identification number or other identifier. In this embodiment, the “offering or facilitating the offering” step might be implemented by a system transfer of a score or other information back to the intermediary or to another third party which contains the instruction to offer an incentive to said buyer entity, or from which the instruction to offer an incentive to said buyer entity is derived.

Example 2 Implementation: In an alternative implementation, the system which is receiving purchase records emanating from buyer entities might make individual purchase information of buyer entities available in anonymous or aggregate form to third party advertisers for the purpose of selecting audiences and constructing campaigns via an interactive interface. Thus, the “making or helping make” step could be implemented by manipulating the data to strip it of individually identifiable information and then transferring the stripped data to another entity (the advertiser or another system) that then performs its own algorithm on the data to obtain a score or other indicator, and then receiving the score back from this entity. In such an implementation, the “offering or facilitating the offering” step might comprise matching and/or re-attaching the buyer entity’s individually identifiable information to this received score or other indicator from the advertiser or other party, and sending a notification to yet another party to send an offer to an address of the buyer entity.

Example 3 Implementation: The “making or helping make” step could be implemented by the step of receiving a score or other indicator received from another system and transferring it to an advertiser without the information necessary for the advertiser to directly identify the buyer entity, so that the advertiser can make the actual determination based on the advertiser’s own algorithm for eligibility. The “offering or facilitating the offer” step would then comprise receiving back the

advertiser's determination and matching that advertiser's decision data with the identification information of the buyer entity.

Thus, the "making or helping make...a discriminatory decision" step could be implemented by various sets of actions that might include one or more of directly generating a score or other indicator for the buyer entity based at least in part on the buyer entity's purchase history, or receiving a generated score or other indicator and performing an action, or transferring the score that the system generated or received to another party for a further action, or stripping identification data from the purchase records or other information, or determining based on a score or other indicator a buyer entity's eligibility for a particular incentive amount or type, or determining a "distribution priority" of an incentive among a plurality of third party incentives that could be offered to the buyer entity, or determining a time and/or a channel to be used for the communication of a particular incentive, or selecting an incentive based not only on the score or other indicator, but also using any filter set by the buyer entity, such as for example that the buyer entity is only willing to receive incentives above a predetermined value, or is only willing to receive incentives from a given set of merchants, or merchant types, and altering the selection or planned communication of incentives to the buyer entity based on that filter.

The step of "offering" the incentive might comprise directly communicating with the buyer entity to make the offer. The language, "facilitating the offering" could be implemented by transferring a score or other indicator to an advertiser with the understanding that the advertiser will offer or further facilitate the offering of the incentive directly to the buyer entity. Alternatively, it could be implemented by determining whether an advertiser's offer can be sent to the buyer entity using any filter set by the buyer entity based on a minimum incentive value, or a given set of preferred merchants, or merchant types, or any other convenient filter, or determining if the offer can be sent based on whether the advertiser has paid the system a predetermined remuneration, or based on the relative attractiveness of the offer in comparison to other offers that may be provided to the buyer entity (for example if the system or the buyer entity has determined that only the four most valuable offers are to be communicated to the buyer entity—thereby forcing the advertisers to compete among themselves based on some criteria for the privilege of communicating their offer

to the buyer entity), or sending to the advertiser or any other third party the authorization (or data that contains the authorization) to allow for the sending of that offer to the buyer entity. "Facilitating the offering" could also mean receiving a score of other information from another party/system that a particular incentive offer should be sent to a particular buyer entity, based on all or a part of that buyer entity's purchase record, and matching this received score or information to the buyer entity's identification information, so that the incentive offer can be offered to that buyer entity by using the buyer's entity email address or personalized web site or other address or correspondence information.

Thus, the "making or helping make...a discriminatory decision" regarding the eligibility of a buyer entity for an incentive and the "offering or facilitating the offering" step could be implemented in a variety of different scenarios, with actions interchangeable between these steps.

The sixth distinctive element is that the incentive for the advertiser's product or service is offered to the buyer entity, *"without transferring to said third party advertiser directly or indirectly any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity."* This distinctive elements allows buyer entities to use the leverage that their purchase histories provides to potentially obtain many preferential incentives from many different advertisers, yet without having to disclose their purchase history in an individually identifiable form to any third party advertiser. In this way, the system allows advertisers to communicate with buyer entities with whom they do not have a preexisting relationship (or at least not a strong one), and to offer select buyer entities attractive incentives in the hope that their products and services will be considered by these buyer entities in the future.

Referring now to Walker '534, the patent states in the very first sentences of its Technical Field in the specification that the "invention relates generally to methods and systems *for promoting the use of financial accounts. Such systems are generally designed to reward a credit card holder for exhibiting behavior preferred by a credit card issuer.*" (col. 1, lines 15-21; emphasis added). In fact, the purpose of '534 is

plainly different from the purpose of the present invention: there is no discussion whatsoever in the '534 patent of allowing *any of a plurality of third party advertisers* to benefit in any way from transaction information that advertiser does not already have in its system, and which is not generated in the ordinary course of its business or is publicly available. The '534 patent (also hereafter referred to as "Walker") shows no transfer of transaction information ("purchase records...for which the payment was not carried out by the system") into the system (element #1) that is not in the ordinary course of Walker's credit card payment business that emanates directly or indirectly from the buyer entity (element #2). In column 9, lines 26 to 29, the Walker patent specification discusses providing card holders with "a menu of reward options from which to select preferences. This card holder input does not comprise "third party purchase records" (e.g., receipts generated by the merchant, for example), "or information derived therefrom." Its purpose is to determine what type of rewards a cardholder likes, not to decide whether the credit card issuer (or third party advertisers) should provide a reward to that card holder that is more costly than those it can afford to provide to other card holders.

To reiterate, the transaction information that is in the Walker system does not comprise third party purchase records but instead is generated by the credit card company (and the system itself) in the course of its day-to-day business of processing payments. (And, the information therefore does not have the benefit of having been verified by a second party that is independent of the system. (This is Element#3.) The rewards offered in the Walker system do not promote the products of third parties ("offering at least on benefit in exchange for at least one action associated with a possible purchase of at least one of said items offered for sale and associated with at least one of said third party advertisers) (Element #4). Nor does the Walker patent in any way envision that the information in the system be otherwise used to market products or services other than system-related credit cards or financial accounts. In fact, even if one *used the system of the present invention as a blueprint (which is illegal)* to adapt the Walker system to emulate the system of the present invention, one would find it difficult to do so, because the merchants that sell the products that are listed on the purchase records would not be willing to gladly cooperate and continue to accept the cards of credit card companies that proactively use their information in

order to allow the poaching of their best customers by their direct competitors. In addition, a retrofitted Walker system that would make its transaction information available to third parties, would – in the absence of consumer permission – run into regulatory obstacles (violation of the Gramm-Leach-Bliley Act) and likely face significant consumer complaints. It would also have to rely on a single credit card source of transaction information, and therefore be potentially far less powerful than the current system where the choice of what information (which store records or credit card records, for example) to submit is made initially by the buyer entity. There is simply no discussion in Walker of altering or rebuilding the system to allow for its use by third parties, or for the provision of non-system transaction information by buyer entities, or for obtaining the authorization and cooperation of card holders for the use of their purchase records in a third party incentive offer system, nor is there a discussion of how the above-mentioned problems would otherwise be resolved.

Regarding the fifth distinctive element of the present invention, the rewards offered by Walker are based only on a particular use of the system's financial account or credit card, and do not relate to the purchase of third party products ("offering at least one benefit in exchange for at least one action associated with a possible purchase of at least one of said items offered for sale and associated with at least one of said third party advertisers). The purpose of the Walker rewards is not to provide compensation or consideration to buyer entities (or to any other party) for the provision of transaction information; any discussion of what the best way might be to compensate/incent buyer entities (or other parties) effectively for the provision of such information therefore never arises. To the extent that Walker's incentives are contingent, an incentive in Walker, no matter how attractive it might be, is never a meant as a payment or compensation for the provision of transaction information into the system. For the same reason, Walker '534 incentives are – while customized – not necessarily preferential. In fact, the Walker patent explains that the customization of its incentive offers is sometimes meant to avoid the cost of rewarding credit card holders for behaviors in which they have already engaged prior to the making of the incentive offer (Walker, column 1, lines 62 to 67). As a result of the information that the Walker system has regarding a particular credit card user's frequent usage of a credit card, that user could be ineligible for a certain reward meant (because he/she is

already making that level of purchases without reward) to encourage the same behavior in another credit card user. This is a direct teaching away from the present claimed invention. While customization of incentives is part of both Walker and the present invention, such customization in Walker cannot be to encourage or facilitate a trade of transaction information in exchange for preferential incentive offers between buyer entities and third party advertisers because initially the transfer of such information into the system is by the merchant.

Because Walker does not offer third-party incentives, element #6 does not apply to it. In Walker, there are no third party advertisers, and consequently there is no need to find a method which allows these third party advertisers to use information without receiving it in personally identifiable form.

In sum, the purpose of the Walker system is to induce the credit card holder to behave in a manner prescribed by the credit card issuer and achieve the communicated performance target during the target period, i.e., to promote the use of the credit card during that target period. It can be seen from a review of the '534 patent that the system is limited to the credit card company database. It can be seen that there is no data flow either directly or indirectly from the buyer entity to the system (the Walker data is already present in its system), there is no recognition of a privacy issue, there is no recognition or discussion of a need for otherwise acquiring the permission of a credit card holder, and there is no disclosure of allowing any third party merchants including other credit card companies to offer incentives to buyer entities. The '534 database is formed from already existing credit card accounts within the single credit card system. The data is generated by the day-to-day use of the credit card by the buyer entity with merchants who have decided to accept that particular brand of credit card at their retail outlets. Accordingly, the potential to aggregate a variety of different incentives from different independent third parties, in some embodiments across a variety of different industries, is completely missing, as is the required data flow instigated by the buyer entity directly or indirectly to the system.

Referring again to the rejection, the examiner cites five references, which she combines with Walker and with each other, and argues that these references form the basis for several conclusions, which, she conjoins into a five-step argumentative chain

to demonstrate that the present inventive system is obvious. Below we examine each of these five steps and the accompanying references in turn.

In the first step of this chain, the MacAvinta reference and Perine reference are used to demonstrate that "actual purchase histories are known valuable commodities to be sold for a price". Both articles refer to the attempted merger of the Doubleclick database with the Abacus database after the corporate merger of Abacus and Doubleclick in 1999. The article discusses the potential privacy concerns, and the lack of consumer permissions. This article does not disclose the formation of a cross-industry database by aggregating preferential incentives across an industry or across multiple industries to thereby motivate buyer entity consumers to self profile and supply their own past purchase histories. The articles recognize the serious privacy issues involved with the Abacus database and the lack of obtained permissions, but contain no teaching or suggestion of a solution to the problem. In fact, as a result of regulatory and public pressures that were due to the unresolved privacy problem, the resulting merged Double Click and Abacus company had to cancel the planned merger and cancel the combination of its distinct databases, and were therefore unable to build profiles of consumers which comprise their online browsing history and their catalogue purchases. Note also that these records did not come "directly or indirectly" from buyer entities. In addition, it is estimated that the Abacus and Doubleclick databases, even if combined, would provides a profile which would comprise on average not more than 1% of the consumer's actual recent past purchase history. The reason is that the data, as noted, does not come from the buyer entities themselves, but from select catalogue merchants, which have only limited information on the purchase histories of a particular buyer entity. Note also that the Abacus database, by definition, cannot be supplied to any set of independent third party merchants, but must exclude or limit the access provided to direct competitors. Further, the tying of a step of a data flow of purchase records directly or indirectly from the buyer entity itself with a step of offering a preferential contingent incentive from an independent third party is simply not present.

Additionally, although it is clear from these articles that consumer information, including purchase information, is indeed "a valuable commodity", there is no

discussion of anyone selling such information for a price. Even if the articles would contain such a discussion (which they don't), it is noteworthy that if information is sold (no matter what the price may be), the sale by a buyer entity of its own transaction information would raise the fundamental problems which we have mentioned earlier: 1. the impossibility or difficulty that the potential purchaser of that information would face in valuing the information that is being sold to him. If the information were shown to him, he might no longer need to buy that information, since he has already seen it; 2. the impossibility or difficulty of the buyer entity protecting itself against the further transfer of information to a third party by the buyer of the information, if the buyer of the information is not trusted; 3. the difficulty or impossibility of valuing information without knowing whether a buyer entity, that sells its information, is likely to later respond to promotions that have been prepared on the basis of that information. Not only is the sale not discussed in the reference, the problems that would make such a sale impracticable are not mentioned either, nor are any alternatives to such a sale mentioned, much less the alternative solution which is set forth with the present inventive system.

The second step of the examiner's argument chain states that that it has been argued that "purchase histories [...] are a property right of the consumer". The data mining article published by Ontario's Information and Privacy Commissioner, "Data Mining: Staking A Claim On Your Privacy" is cited here, ((hereafter referred to as the "Ontario article"). We agree that it has been recognized that personal information, including purchase histories, are or can be a property right of the consumer. However, we do not claim to create this right with the present invention, only for consumers (and other buyer entities) to exercise that right in a novel, useful and non-obvious manner using the claimed method, system and program product. The Ontario article never discusses the transfer of information into the system, only the fair use of the information if it has been obtained in the regular course of business. Further, such "fair information practices" never include anything that – even remotely – resembles providing consumers with one or more contingent, preferential third party incentives via a mechanism that does not require that their individually identifiable information be disclosed to these third parties.

In the third step of the aforementioned argument chain, the article by Dave Redell on Information Technology and Privacy is cited (this reference is hereafter referred to as the "Redell article"), and it is argued that "implicit in [the] right [to own information] is the right to control, use or trade for a benefit". This is also true, but neither do we claim that the present invention comprises the discovery of this additional implicit right of a consumer (or other buyer entity) to control, use or trade her information. What our invention does is that it provides consumers (and other buyer entities) with a method, system, and program product to exercise this right of control in a novel, useful and non-obvious manner. The Redell article does not contemplate the transfer of transaction information not already present in or processed by the system in the ordinary course of business. In particular, it never contemplates the trade of non-system, verifiable transaction information by buyer entities against a benefit. Nor does it recognize the unsolved problems regarding such a trade, nor any solution to these problems, much less the solution proposed by our invention. (On page 3, lines 43 to 50 of his article, Redell refers to select merchants using "point-of-sale equipment" to more efficiently capture transaction information at the point of sale which pertains to the goods sold by these same merchants. However, he does not refer to the receipt of transaction information by a merchant regarding purchases made by buyer entities with other third party merchants, and for which "the payment was not carried out by the system" (claim 1). Further, none of the solutions to the privacy issues that he proposes includes a method, system, or program product that resembles the present invention).

In the fourth step of the argument chain, it is stated that there are examples of other private rights that have been sold by consumers, such as time and attention. Seth Godin's Permission Marketing, Chapter 10 is cited here (hereafter referred to as "Godin"). Godin cites several case studies, which serve as additional references, including Bonus Mail by Intellipost, Cybergold, Amazon.com, AOL, Value America, Yoyodyne, InfoBeat and MyYahoo. However, Godin never contemplates the trade of verifiable transaction information by buyer entities (or by anyone else) for a benefit, the significant heretofore unsolved problems regarding such a trade, nor any solution to these problems, much less the solution proposed by the present invention.

In the fifth and final step, the examiner argues with respect to our original claim 1 that the fusion of the preceding four steps yields the conclusion that the present inventive system would have been obvious at the time of the invention to a person having ordinary skill in the art. However, none of the cited articles contemplates more than a single of the six distinctive elements of the invention. Even by combining the Walker reference with the Macavinta reference with the Perine reference with the Ontario reference with the Redell reference with the Godin references, such combination yields, at best, possibly two of the six distinctive elements.

In sum, it is clear that the combination of Walker and these five references cannot stand: even in combination they only produce fragments of the present inventive system. Not only is there no motivation to combine these diverse teachings, but even if such a combination was made, there is no teaching of receiving third party purchase records or information derived therefrom directly or indirectly from buyer entities, and responding to this information provision by providing these buyer entities with privacy-effective access to one or more third-party contingent preferential incentives. The potential of aggregating a set of cross-industry incentives from independent third party advertisers, and using that aggregation to incent individual buyer entities to self-profile and provide their past purchase histories to create a cross-industry database with permission to receive targeted communications is completely missing from all of the above mentioned references.

In fact, we respectfully submit that there is hardly a more compelling argument for the non-obviousness of the present invention than the initial response of the patent office itself. The office action shows, that even by using the present patent application to piece together fragments of over 19 disparate references, it was not possible to construct an inventive system which even approximates that claimed by the present invention.

It should be noted that one of ordinary skill in the art would typically be a direct or incentive marketer or a database marketing specialist with a focus on the acquisition of new customers or the provision of customer acquisition services. As is demonstrated by the multitude of references cited by the Examiner, it is inherently non-obvious for such a marketer to recognize applicant's way of incenting a consumer to

self profile in a privacy-protected manner by creating a central profile hosted by a trusted party with the potential for a universe of different cross-industry incentives from independent third party advertisers, to thereby obtain a comprehensive past purchase history across a variety of products and industries that would give the consumer profile the accuracy necessary for highly tailored incentives, and at the same time, because of the preferential nature of these incentives, make the consumer amenable to receiving targeted communications containing these incentives. Such a system that allows direct competitors of those companies that have previously sold products and processed payments for particular buyer entities to compete for the business of these buyer entities, is inherently not obvious. Despite the variety of different privacy articles cited by the Examiner, not a single one of these articles suggest the combination claimed by applicant. Thus, the Examiner has been forced to use applicant's specification as the blueprint for a referenced combination, which combination is still deficient.

Although the Patent law as set forth in the statutes and case law requires only that a combination be useful, novel and non-obvious for patentability, the presently claimed invention also creates a fundamental synergy generated by an ever-increasing cross-industry and across multiple industries database of verifiable buyer entity purchase information incited by an ever-increasing cross-industry set of contingent preferential incentives, and vice versa. The greater the number of participating buyer entities, the greater the attractiveness of the present system to new third party advertisers. In turn, as the number of third party advertisers increases, the system becomes increasingly attractive to buyer entities, and number of participating buyer entities increases as well.

The present invention has a similar synergistic effect with respect to the virtuous cycle between the provision of information by a buyer entity and the buyer entity's response to system-generated incentive offers. As a buyer entity augments its profile with increasingly comprehensive and varied information, it receives better (more highly remunerated) incentive offers, and becomes more likely to respond. As it responds by purchasing products or accepting incentive offers, that information will normally be uploaded into the system as well. Because advertisers/merchants have the

greatest interest in paying for the provision of incentive offers to those buyer entities that have a track record of previously responding to system-generated incentive offers, the attractiveness of their incentive offers increases further, which increases the response of buyer entity, and so forth.

A final synergy that the present system generates is that advertisers compete for the business of buyer entities by setting incentive reward levels that will give their particular incentive offer a higher standing as buyer entities sort their incentive offers by level of attractiveness, or as the system presents these offers to buyer entities in a sequence determined by their value. As a result of this competition, a market is effectively created for the new business of a buyer entity, based on that buyer entity's purchase record, and its demonstrated propensity to respond to incentive offers for new products and services.

The present invention contains a variety of dependent claims which contain important limitations to the invention which are patentable in their own right. Only selected of these dependent claims will be argued for purposes of maintaining a focused response.

Claim: 2

Amendment?: Yes

Non-Obvious Combination: With respect to claim 2, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "making or helping make at least one decision results in obtaining a group of buyer entities that meets a search criteria; and wherein the offering or facilitating the offering comprises providing an incentive to each of the buyer entities in the group." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for utilizing search criteria in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 3

Amendment?: Yes

Non-Obvious Combination: With respect to claim 3, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "wherein the demographic information of each of a plurality of buyer entities is stored with said information." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for storing

demographic information in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 4

Amendment?: Yes

Non-Obvious Combination: With respect to claim 4, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "categorizing of purchases listed from a plurality of independent third parties in the proof of purchase records or information verifiably derived therefrom based on at least one category; and calculating at least one score for a buyer entity based on the amount purchased in one or more selected categories; and storing the score for the buyer entity." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for categorizing purchases in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 5

Amendment?: Yes

Non-Obvious Combination: With respect to claim 5, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "wherein said offering or facilitating the making or helping make a decision step comprises setting the incentive for each buyer entity in a group based on its purchases of a particular product or service item." Simply nowhere in the prior art including the cited references Walker and Scroggie is there disclosed, taught, or suggested such a technique for setting the incentive in the manner claimed to improve the already-claimed features of the buyer-driven targeting system. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 8

Amendment?: No

Non-Obvious Combination: Referring to claim 8, this claim requires the steps of receiving buyer entity preferences for categories of third parties, receiving merchant category designations for the third parties, and forming a group of buyer entities who have indicated in their respective buyer preferences that they would receive a marketing incentive from third parties in the merchant/advertiser category designation. The Examiner notes that Walker at col. 9, states that the credit card issuer could use card holder input to select and set reward terms. However, this statement says nothing about receiving buyer entity preferences for categories of third parties and then ensuring that buyer entities who have not indicated a preference for receiving a marketing incentive for a category of third parties are not included in a group of buyer

entities resulting from a search step by a merchant in that category. This operation is not present in Walker. *Even more importantly, the combination of this element with the remaining distinctive elements of a buyer-driven self-profiling system as described in claim 1 of the present application, generates a unique and novel effect of creating a particularly forceful and compelling motivation for buyer entities to indicate their merchant category preferences in the prescribed manner, which in turn increases the likelihood that they will respond to these incentives. In addition, because the purchase records are received from the buyer entity, and the remaining system participants depend in one embodiment on this added and significant level of cooperation of the buyer entity with the system, the buyer entity has much greater leverage to request and to expect that its wishes are respected and followed by the remaining system participants.*

Claim: 9

Amendment?: Yes

Non-Obvious Combination /Rebuttal of Examiner Argument: In claim 9 a threshold value is received from the buyer entity that an incentive must meet before the buyer entity will receive the incentive, followed by a step of receiving a value for the incentive to be provided, and the search step is stated to include the step of comparing the value of the incentive to the threshold value set by the buyer entity and the step of not including that buyer entity in the group if the buyer entity has set a threshold value for the incentive which is not exceeded. Examiner cites no reference with this element / these steps. Walker asks credit card holders to indicate what type of rewards they prefer (i.e. miles or rebates or points, for instance). This is completely different from allowing buyer entity to make their receipt of incentive offers contingent on said offers exceeding a certain value. *Walker does not contemplate for consumers to be doing such a thing, because Walker does not get its transaction information from consumers other than in the ordinary course of business, and consumers therefore do not have the same leverage and entitlement to set the terms of their communications with the system.* Allowing cardholders to input reward terms does not teach the combination of receiving a threshold value from the buyer entity. There is nothing in the cited prior art that suggests this combination.

Here again, the combination of this element with the remaining distinctive elements of a buyer-driven self-profiling system as described in the present application, generates the novel and nonobvious (but with hindsight predictable) effect of creating a particularly forceful and compelling motivation for buyer entities to indicate their threshold value preferences in the prescribed manner, which in turn increases the likelihood that they will respond to these incentives. In addition, because the purchase records are received from the buyer entity, and the remaining system participants depend on this added and significant level of cooperation of the buyer entity with the system, the buyer entity has much greater leverage to request and to expect that its wishes are respected and followed by the remaining system participants, and to enjoy the added power and control that such privileged status confers.

Claim: 10

Amendment?: Yes

New Element: The acceptance information is recorded into the system and has "all other things equal" (ceteris paribus) the impact of bettering the terms of at least one other incentive (of a different advertiser) to said buyer entity.

Non-Obvious Combination: The combination of this element with the present invention generates a synergistic effect by allowing for the creation of a virtuous cycle between the provision of information by a buyer entity and the buyer entity's response to system-generated incentive offers. *As a buyer entity augments its profile with increasingly comprehensive and varied information, it receives better (more highly remunerated) incentive offers, and becomes more likely to respond. As it responds by purchasing products or accepting incentive offers, this element insures that the information will normally be uploaded into the system as well.* Because advertisers/merchants have the greatest interest in paying for the provision of incentive offers to those buyer entities that have a track record of previously responding to system-generated incentive offers, the attractiveness of their incentive offers increases further, which increases the response of buyer entity, and so forth.

Rebuttal of Examiner Argument: middle of page 12 of the office action. Incentive responses are also monitored by the Walker system as well as by other systems; but the impact is different and less far reaching than in a system where each incentive acceptance flows back into a central profile for that buyer entity, which the buyer entity uses with multiple advertisers and for potentially multiple products. Neither Walker nor Ng nor – to our knowledge – the remainder of the prior art suggests these additional steps, nor was a single suggestion found to combine Walker or Ng with elements 1,2,3,4 and 6, which are absent in both Walker and in Ng. No suggestion was found to combine these steps with other pieces of the prior art.

Claim: 11

Amendment?: Yes

Non-Obvious Combination: With respect to claim 11, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "obtaining additional information on whether the buyer entity made a follow-up purchase or a co-purchase contemporaneous with or after accepting the incentive and inputting the additional information to be stored." Simply nowhere in the prior art including the cited references of Ng and Walker is there disclosed, taught, or suggested such a technique for using additional follow-up purchase or co-purchase information in combination with the acceptance information of claim 10 in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 12 and 13

Amendment?: yes

New Element: Added per claims as previously cited.

Non-Obvious Combination: With respect to claims 12 and 13, the Examiner has rejected such claims as being unpatentable in view of the cited references. Currently claimed is "wherein said making or helping to make at least one decision step further

comprises the categorization of purchases listed from a plurality of independent third party merchants in the purchase records or information verifiably derived therefrom based on a set of categories; and in claim 13 calculating or facilitating the calculation of a separate score for one of the buyer entities in at least one of the categories based on purchase data associated with purchases by the buyer entity in each of the respective categories." Simply nowhere in the prior art including the cited references of Ng and Walker is there disclosed, taught, or suggested such a technique for using categorization and scoring in the manner claimed to improve the already-claimed features of the buyer-driven targeting. *Because the buyer entity will in many embodiments of the present application, be motivated to supplement her profile from multiple sources, the resulting profile will be much deeper and broader than those found normally elsewhere. As a result, the categorization and scoring of these records is particularly powerful and instrumental in combination with the remaining elements of the present invention.* A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 14

Amendment?: Yes

New Element: Please refer to claim language.

Non-Obvious Combination: With respect to claim 14, the Examiner has rejected such claim as being unpatentable in view of the cited references. Claim 14 includes the steps of calculating a separate score for a buyer entity in each of a plurality of categories based on the amount purchased by the buyer entity in the respective category, calculating a composite score for a particular buyer entity in accordance with a function of the separate scores for a plurality of selected categories for the particular buyer entity, and creating a group of buyer entity based on this composite score. In particular, currently claimed is "calculating a separate score for one of the buyer entities in each of a plurality of the categories based on the amount purchased by the buyer entity in the category; calculating a composite score for particular buyer entities in accordance with a function of the separate scores for a plurality of selected categories for the particular buyer entities; and creating a group of buyer entities based on the composite scores." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using scoring in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 15

Amendment?: Yes

New Element: Please refer to claim language.

Non-Obvious Combination: With respect to claim 15, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "offering or facilitating the offering of a plurality of said incentives from different third party advertisers to one of the buyer entities by determining or facilitating the

determination of a sequence or relative prominence in which each incentive is communicated to the buyer entity based on at least one of the calculated scores." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using sequence or relative prominence in the manner claimed to improve the already-claimed features of the buyer-driven targeting. *Because the buyer entity will in many embodiments of the present application, be motivated to supplement her profile from multiple sources, the resulting profile will be much deeper and broader than those found normally elsewhere. As a result, the particular scoring of these records mentioned here is particularly powerful and instrumental in combination with the remaining elements of the present invention.* A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 16

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination: With respect to claim 16, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "wherein the incentives are provided across a plurality of distribution channels." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using distribution channels in the manner claimed to improve the already-claimed features of the buyer-driven targeting. *The combination of this element with the remaining distinctive elements of a buyer-driven self-profiling system as described in the present application, generates the novel and nonobvious (but now predictable) effect of creating a particularly forceful and compelling motivation for buyer entities to provide permission to receive promotions across the multiple channels through which the system can provide such promotions as per this claim, and also increases the likelihood that they will respond to these incentives. In addition, more pervasive incentives will motivate buyer entities to increase their submission of purchase records. Further, because the purchase records are received from the buyer entity, and the remaining system participants depend on this added and significant level of cooperation of the buyer entity with the system, the buyer entity has much greater leverage to request and to expect that it receive incentives across multiple channels depending on its particular preferences.* A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 17

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination: With respect to claim 17, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "substantially continuously receiving additional purchase records or information verifiably derived therefrom for one of the buyer entities from a plurality of different payment or merchant accounts; and recalculating or facilitating the recalculation of at least one of said scores of one of said buyer entities based on the additional purchase

records or information verifiably derived therefrom.” The combination of this element with the remaining distinctive elements of a buyer-driven self-profiling system as described in the present application, generates the novel and nonobvious effect of creating a particularly forceful and compelling motivation for buyer entities to allow *for continued multi-channel submission of purchase records from merchant accounts as prescribed in the present claim*, which in turn increases the likelihood that they will respond to these incentives. In addition, because the purchase records are received from the buyer entity, and the remaining system participants depend on this added and significant level of cooperation of the buyer entity with the system, the buyer entity has much greater leverage to request and to expect that its wishes are respected and followed by the remaining system participants. Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for recalculating scores in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 18

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination: With respect to claim 18, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is “determining or facilitating the determination of whether said recalculated score qualifies said one of the buyer entities for an on-going incentive.” *This feature allows the system in one embodiment in one embodiment to automatically respond to a buyer entities submission of purchase records with improved incentives. Buyer entities (consumers as well as businesses) like to see the results of their self-profiling efforts quickly. This makes the system more attractive.* But simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using on-going incentives in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 19

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination:

Rebuttal of Examiner Argument: With respect to claim 19, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is “recalculating the incentive determined in said offering or facilitating the offering by applying said recalculated score of said one of the buyer entities to an incentive function.” *This feature also allows the system in one embodiment in one embodiment to automatically respond to a buyer entities submission of purchase records with improved incentives. As stated above, buyer entities (consumers as well*

as businesses) like to see the results of their self-profiling efforts quickly. This feature makes the system more attractive. Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for recalculating scoring in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 20

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination: With respect to claim 20, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "providing a plurality of said incentives from different third party advertisers to one of the buyer entities by determining the sequence or the relative prominence in which each of the third party advertiser incentives is communicated to the buyer entity based on said recalculated score." *This feature increases the attractiveness and usability of the present buyer-driven self-profiling invention. In particular, it motivates advertisers to provide well remunerated and attractive incentives to select buyer entities, in order for their incentives to be shown first and/or most prominently. Better incentives in turn increase response rates, and overall system participation.* Nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using sequence or relative prominence in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 21

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination: With respect to claim 21, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "wherein the incentives are provided across a plurality of distribution channels." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using distribution channels in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 22

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination: With respect to claim 22, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "weighting questions based on scores of said buyer entities; selecting questions,

based, at least in part, on the weight given the question; sending questionnaires electronically to a plurality of said buyer entities; and receiving responses to the questionnaire from a plurality of said buyer entities; and recalculating at least one score for the at least one buyer entity based on said responses." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using questionnaires in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 23

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination: With respect to claim 23, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "determining if the recalculated score qualifies said one of the buyer entities for an on-going incentive." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using on-going incentives in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 24

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination: With respect to claim 24, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "recalculating the incentive determined in said offering or facilitating the offering step by applying said recalculated score of said one of the buyer entities to an incentive function." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using recalculation of scoring in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 25

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination:

Rebuttal of Examiner Argument: With respect to claim 25, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently

claimed is "providing a plurality of the incentives from different third party advertisers to one of the buyer entities by determining the sequence or the relative prominence of each of a plurality of incentives based on said recalculated score." *This feature increases the attractiveness and usability of the present buyer-driven self-profiling invention. In particular, it motivates advertisers to provide well remunerated and attractive incentives to select buyer entities, in order for their incentives to be shown first and/or most prominently across a multitude of channels. Better incentives in turn increase response rates, and overall system participation.* Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using sequence or relative prominence in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 26

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination: With respect to claim 26, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "wherein the incentives are provided across a plurality of distribution channels." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using distribution channels in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 27

Amendment?: yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination: With respect to claim 27, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "wherein said receiving step further includes: obtaining permission from at least one of the buyer entities to supplement the data with additional information associated with the buyer entity from a third party information broker; and wherein said storing includes storing said additional information; and wherein said offering or facilitating the offering of the incentive is based on terms being, all other things equal, superior to terms on which an incentive associated with the same third party advertiser is offered to another buyer entity similar to the buyer entity, which did not provide said additional information."

Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using additional information in the manner claimed to improve the already-claimed features of the buyer-driven targeting. *The present system provides a unique and powerful motivation for a buyer entity to perform the actions described in the present claim, and for advertisers and the buyer entity to benefit from having taking these actions, in furtherance of the further system*

participation of both buyer entities and advertisers. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 28

Amendment?: Yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination:

Rebuttal of Examiner Argument: With respect to claim 28, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "wherein said additional information is demographic information." What has been said for claim 27, also holds true here. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 29

Amendment?: Yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination:

Rebuttal of Examiner Argument: With respect to claim 29, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "receiving an authorization from said one of the buyer entities as a threshold requirement to either performing the obtaining additional information or as a threshold requirement to entering said additional information into a database or using said additional information to change a plurality of scores." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using threshold-based authorization in the manner claimed to improve the already-claimed features of the buyer-driven targeting. This threshold-based authorization goes to the core of the buyer activism that can be found in many embodiments of the present inventive system. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 30

Amendment?: Yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination:

Rebuttal of Examiner Argument: With respect to claim 30, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "determining if the changed score qualifies said one of the buyer entities for an on-going incentive." *This feature allows the system in one embodiment to automatically respond to a buyer entities submission of purchase records with improved incentives. Buyer entities (consumers as well as businesses) like to see the results of their self-profiling efforts quickly. This makes the system more attractive.* Simply nowhere in the prior art including the cited references is there disclosed, taught,

or suggested such a technique for using on-going incentives in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 31

Amendment?: Yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination:

Rebuttal of Examiner Argument: With respect to claim 31, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "recalculating the incentive determined in said offering or facilitating the offering step by applying a recalculated score of one of the buyer entities to an incentive function." *This feature also allows the system in one embodiment to automatically respond to a buyer entities submission of purchase records with improved incentives. As stated above, buyer entities (consumers as well as businesses) like to see the results of their self-profiling efforts quickly.* Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using scoring recalculating in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 32

Amendment?: Yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination:

Rebuttal of Examiner Argument: With respect to claim 32, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "providing a plurality of said incentives from different third party advertisers to one of the buyer entities by determining the sequence or the relative prominence of each of a plurality of the incentives based on a recalculated score." *This feature increases the attractiveness and usability of the present buyer-driven self-profiling invention. In particular, it motivates advertisers to provide well remunerated and attractive incentives to select buyer entities, in order for their incentives to be shown first and/or most prominently.* Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using sequence or relative prominence in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 33

Amendment?: Yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination:

Rebuttal of Examiner Argument: With respect to claim 33, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "wherein the incentives are provided across a plurality of distribution channels." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using distribution channels in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 34

Amendment?: Yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination:

Rebuttal of Examiner Argument: With respect to claim 34, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "wherein at least one category is an individual company, and wherein said score for that category is calculated based on the amount of purchases indicated by said purchase records or information verifiably derived therefrom for said individual company." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for using categorization and scoring in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claim: 35

Amendment?: Yes

New Element: Please refer to the cited claim language.

Non-Obvious Combination:

Rebuttal of Examiner Argument:

Referring to claim 35, the Examiner has rejected such claim as being unpatentable in view of the cited references. In response, such claim has been amended to clarify what is currently claimed. In particular, currently claimed is "sending at least one score of a particular one of said buyer entities to a third party after receipt of an authorization from said particular buyer entity." Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for sending third parties scores in the manner claimed to improve buyer-driven targeting, especially when taken in combination with the features described herein regarding the intervening claim(s).

This is an important feature, because it allows in one embodiment, the buyer entity to extend the power of its profile to obtain a wider range of services of those third party merchants that the buyer entity trusts with a particular score (the feature is extensively described in the specification, see in particular, paragraphs). An important requirement to make this step possible, is that the active participation and permission of the buyer entity is needed, which the system promotes and is based upon, and which is necessary to have third parties avail themselves of a particular buyer entity

score. A key advantage emanating from this step presents the buyer with additional system-inherent incentives to provide its purchase data to the system frequently and comprehensively.

Referring to the examiner's rejection, the examiner admits at page 14 of the rejection that Walker does not disclose this score transfer limitation. The examiner states that "above cited art may disclose the additional limitation, or those additional limitations are well-known in the marketing before alleged invention time." Applicant has reviewed each of the cited references of the examiner's rejection, and has not found this score transfer limitation. If the examiner continues to maintain this rejection, then the examiner is requested to specifically point out where and in which reference this limitation is disclosed. Additionally, if the examiner is relying on uncited prior art that the examiner alleges to be well known, then applicant respectfully requests that the examiner place this reference in the record. Additionally, the examiner is requested to explain the motivation for someone of ordinary skill to alter the Walker system to include this feature, and still have a viable system. In view of the deficiency of the art with respect to this rejection, it is respectfully requested that this rejection be withdrawn.

Claim: 41

Amendment?: no

New Element: score-based pricing

Non-Obvious Combination: The combination with elements 1-6 not above is non-obvious, because score-based pricing makes the system far more effective for the present system, which creates the potential for buyer entities to care about and to help improve their scores, by doing various things such as providing info and responding to offers. This is different from a system that prices based on scores without having such score-related incentives as a part of those other respective inventive systems.

Rebuttal of Examiner Argument: Referring to claim 41, there is a further step set forth of calculating a fee based on the scores of the buyer entities provided the incentive. The Examiner cites Dedrick for the proposition that this is obvious, citing col. 5, lines 20-30. Dedrick indeed describes a method and apparatus for serving advertisements to consumers (buyers) where advertisers pay more for consumers whose profiles match more closely to characteristics specified by the advertisers.

However, Dedrick says " *Consumer variables refer to demographic, psychographic and other profile information. Demographic information refers to the vital statistics of individuals, such as age, sex, income and marital status. Psychographic information refers to the lifestyle and behavioral characteristics of individuals, such as likes and dislikes, color preferences and personality traits that show consumer behavioral characteristics. Thus, the consumer variables refer to information such as marital status, color preferences, favorite sizes and shapes, preferred learning modes, employer, job title, mailing address, phone number, personal and business areas of interest, the willingness to participate in a survey, along with various lifestyle information. This information will be referred to as user profile data. The end user initially enters the requested data and the non-identifying information is transferred to the metering server 14. That is, the information associated with the end user is compiled and transferred to the metering server 14 without any indication of the*

identity of the user (for example, the name and phone number are not included in the computation). The GUI also allows the user to receive inquiries, request information and consume information by viewing, storing, printing, etc." (col. 3, lines 35-50). In Dedrick, Buyers are not able to provide third party purchase records, and in fact all information provided by buyers is not verifiable, other than records of purchases a buyer may make through the system itself. In contrast, the claim 41 embodiment is not based on advertiser selection of consumer variables, but rather is based on scores of the buyer entities in the group, such scores being based not only on verifiable third party purchase records but on records that have been provided by the buyer entity itself. This is very important because the provision of the purchase records by the buyer entity is in a preferred embodiment an indicator of the system participation by that buyer entity, and therefore a predictor of the likelihood that the buyer entity will respond to incentives that emanate from the system. Dedrick therefore in no way shows the combination present here, or achieves the results that are likely as a result of such a combination.

Claim: 52-56

Feature to which new elements relate: incentives rewarding web-browsing based on purchase scores

Non-Obvious Combination: due to the far greater superiority of a profile consisting of multiple purchase records, buyer entity will get much better incentive offers from other web sites, and web site banner advertising would be far more effective and relevant and enticing. Neither the features by themselves nor the combination with other elements of the present invention is shown in the cited prior art including in the cited references Gardenschwartz and Ng. *Contrary to what is stated by the examiner in her office response, these claims do not pertain to "segmenting based on whether one of the buyer entities view[s] a website". Rather the purpose of the invention embodiment of these claims is to segment based on scores derived from purchase record information as described in claim 1, and to then use these scores to offer or facilitate the offering of differential and preferential rewards in exchange for buyer entities' visits of websites.*

Claim: 60

New Element & Non-Obvious Combination: offering incentives based on frequency creates a system-incentive for buyer entity to upload as many purchase records and as diverse as possible purchase records; combination with elements 1-5 not suggested elsewhere.

Claim: 61

New Element & Non-Obvious Combination: The comments made for claim 60 also applies to claim 61 but with reference to the volume of purchases.

Claim: 69 and 70

Non-Obvious Combination: Referring to claim 69, a further step is included in this embodiment of comparing a source of the third party proof of purchase record with a source database of third parties and entering only those proof of purchase records if from third party sources that are in the source database. *This feature is important because it allows the system in one embodiment to disregard purchase records from merchants for which the buyer entity would not like to have its records included in the profile. Thus buyer entities can protect their privacy with respect to their purchases of select merchants.* It should be noted that this particular step is related to the fact that these third party proof of purchase records are obtained from buyer entities themselves in the self profiling process, rather than from within a system. Walker does not provide such a verification step because the records in the '534 patent come from within the '534 system itself.

Claim: 74

New Element and Non-Obvious Combination: This is a very important claim, which enables frictionless rewarding, which is quickly recognized as a huge benefit by anyone who has sold a first generation Web-based promotional program or product. Ninety-seven percent of all purchases are estimated to occur offline. Many previous Web-based promotional services have tried to offer incentives to consumers for offline purchases, but failed to do so successfully because merchants generally did not find it worthwhile to change their point of sale procedures. Training clerks at cash registers to recognize and process specialized discount cards and coupons is expensive, and not worthwhile when only a small percentage of consumers makes use of a particular incentive program. Because in one particular embodiment the system continues to receive a buyer's credit-card statements and other purchase records and purchase record information after that buyer has first signed up for a promotion, transactions for which a buyer is entitled to a rebate are automatically identified, and buyers receive the credit for these transactions on their credit-card or debit-card statement.

Claim: 75

Non-Obvious Combination: creates possibility to use potential for complete profile to take advantage of information quickly by sending highly relevant incentives depending on the immediate buying preferences as inferred from very recent buying history. *This feature also allows the system in one embodiment to automatically respond to a buyer entities submission of purchase records with improved incentives. As stated above, buyer entities (consumers as well as businesses) like to see the results of their self-profiling efforts quickly. This feature would make the system more attractive.* Simply nowhere in the prior art including the cited references is there disclosed, taught, or suggested such a technique for recalculating scoring in the manner claimed to improve the already-claimed features of the buyer-driven targeting. A specific showing in the prior art or a notice of allowance is respectfully requested.

Claims: 94-178

Response: Certain of these system claims are rejected by the examiner with reference to her prior arguments with respect to parallel method claims. In order not to further

lengthen our response, we ask the examiner to consider our arguments above as our response to her rejection of these claims.

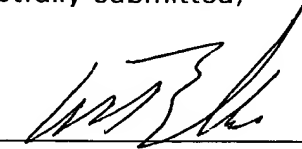
In view of the foregoing amendments and remarks, it is respectfully requested that the rejection of the claims be reconsidered and withdrawn. Early passage to issue of this application is solicited.

Respectfully submitted,

Date March 11, 2003

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By



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And by Applicant.

MARKED UP VERSION SHOWING CHANGES MADE

Below is the marked up replacement paragraph:

Pages 24-25, paragraph number 0132:

Referring to [Fig. 3]Figs. 3A and 3B, there is shown a preferred flowchart execution for implementing the present invention on processing system 15. The first step 300, is to display to a buyer entity an explanation of system of the present inventive system, including the opportunity to receive promotions in one or more categories in return for the provision of the purchase history records for the buyer entity. The buyer entity could then respond electronically to provide permission to send him promotions in certain preference areas, and set forth those preference areas. This is represented in the process by block 310, by the receipt from a buyer entity, who has chosen to respond to this query, of identification information and preference information. The preference information could specify the category of advertisements or merchants from which it wishes to receive information and promotions, i.e., only promotions for real estate in Virginia, or only promotions on jewelry, or only promotions on soccer equipment. The preference information could also include one or more threshold incentive values, i.e., the buyer entity is only willing to receive incentives, generally, or incentives for jewelry, which equal or exceed \$1.00 in value. The process then moves to step 312, comprising receiving the purchasing history of the buyer entity. This step 312 could be performed at the same time as the receipt of the buyer entity ID information and preference information. Some of the variety of options for receiving this information in step 312 and storing this information in step 314 are as follows.

Below are the marked up amended claims:

1. (Amended) A method for buyer-driven targeting [comprising the steps of] by a system comprising:

[separately] receiving directly or indirectly from each of a plurality of buyer entities [a] at least one respective third party [proof of] purchase record or information verifiably derived therefrom, said purchase record or information verifiably derived

therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system;

[entering information contained in the received proof of purchase records into a searchable electronic database;

obtaining search criteria for the database;

searching the information in the database based on the search criteria to obtain a group of buyer entities; and

providing an incentive to each of a plurality of the buyer entities in said group.]

storing information associated with said data;

for a plurality of product or service items offered for sale, wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution or provision is not carried out by said system in the ordinary course of business, making or helping make with respect to at least one of said buyer entities, based at least in part on said data, at least one discriminatory decision associated with the offering of at least one from among a plurality of different preferential contingent incentives, with each incentive associated with at least one of said items and associated with at least one of said third party advertisers, wherein there is at least one different preferential contingent incentive from each of the plurality of said different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a possible purchase of at least one of said items, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said discriminatory decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored data relating to purchases made by said buyer entity with merchants other than the third party advertiser that is associated with the incentive; and

offering or facilitating the offering of at least one of said preferential contingent incentives to said buyer entity, without having transferred to said third party advertiser directly or indirectly any full name associated with said buyer entity at the time that

said incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that said system has received directly or indirectly from that buyer entity said at least one respective third party purchase record or information verifiably derived therefrom.

2. (Amended) The method as defined in claim 1, wherein the [searching step]making or helping make at least one decision results in [the] obtaining a group of buyer entities that meets [the]a search criteria; and wherein the [providing an incentive step] offering or facilitating the offering comprises providing an incentive to each of the buyer entities in the group.

3. (Amended) The method as defined in claim 1, wherein the [data base includes]demographic information of each of a plurality of buyer entities is stored with said information.

4. (Amended) The method as defined in claim 1, further comprising: [the step of]

categorizing of purchases listed from a plurality of independent third parties in the [proof of]purchase records or information verifiably derived therefrom based on at least one category; and calculating at least one score for a buyer entity based on the amount purchased in one or more selected categories; and

[entering]storing the score for the buyer entity[in the data base].

5. (Amended) The method as defined in claim 1, wherein said [providing an incentive step]making or helping make a decision step comprises setting the incentive for each buyer entity in [the]a group based on its purchases of a particular product or service item.

6. (Amended) The method as defined in claim 1, wherein a plurality of the buyer entities are individual persons.

8. (Amended) The method as defined in claim 1, further comprising[the steps of]:

receiving buyer entity preferences for categories of third [parties]party merchants;
wherein said making or helping make a decision step[obtaining search criteria step]
includes receiving a merchant category designation for the third party advertiser[;] and
[wherein said searching step comprises] forming [the] a group of only buyer entities
who have indicated in their respective buyer entity preferences that they would receive
a marketing incentive from third [parties]party advertisers in the merchant category
designation.

9. (Amended) The method as defined in claim 1, further comprising[the steps
of]:

receiving a threshold value from the buyer entity that an incentive must meet before
the buyer entity will receive the incentive;
receiving a value for the incentive to be provided; and
wherein said [searching step]making or helping make at least one decision step
includes [the step of] comparing the value of the incentive to the threshold value set
by the buyer entity and [the step of] not including that buyer entity in [the] a group if
the buyer entity has set a threshold value for the incentive which is not exceeded.

10. (Amended) The method as defined in claim 1, further comprising:[the steps
of]

obtaining acceptance information on whether one of the buyer entities accepted the
incentive; and
[inputting this]storing the acceptance information to [the]a database.

11. (Amended) The method as defined in claim 10, further comprising: [the step
of] obtaining additional information on whether the buyer entity made a follow-up
purchase or a co-purchase contemporaneous with or after accepting the incentive and
inputting [this] the additional information to be stored[the purchase record of the buyer
entity in the electronic database].

12. (Amended) The method as defined in claim 1, wherein said [entering
step]making or helping to make at least one decision step further comprises the
categorization of purchases listed from a plurality of independent third [parties]party

merchants in the [proof of] purchase records or information verifiably derived therefrom based on a set of categories.

13. (Amended) The method as defined in claim 12, further comprising: [the steps of] calculating or facilitating the calculation of a separate score for one of the buyer entities in at least one of the categories based on purchase data associated with purchases [for a buyer entity in each of a plurality of categories based on the amount purchased] by the buyer entity in each of the respective categories[;].

14. (Amended) The method as defined in claim 12, further comprising[the steps of]:

calculating a separate score for one of the buyer entities [a buyer entity] in each of a plurality of the categories based on the amount purchased by the buyer entity in the category;

calculating a composite score for particular buyer entities [entity] in accordance with a function of the separate scores for a plurality of selected categories for the particular buyer entities [entity]; and

creating a group of buyer entities based on the composite scores.

15. (Amended) The method as defined in claim 13, further comprising: offering or facilitating the offering of [providing] a plurality of said incentives from different third party advertisers to one of the buyer entities[, including the steps of] by determining or facilitating the determination of a [the] sequence or [the] relative prominence in which each incentive is communicated to the buyer entity based on at least one of the calculated scores [of each of the plurality of the incentive awards based on said calculated score].

17. (Amended) The method as defined in claim 13, further comprising:

substantially continuously receiving additional [proof of] purchase records or information verifiably derived therefrom for one of the buyer entities from a plurality of different payment or merchant accounts; and

recalculating or facilitating the recalculation of at least one of said scores [said]of one of said buyer entities based on the additional [proof of]purchase records or information verifiably derived therefrom.

18. (Amended) The method as defined in claim 17, further comprising:

determining or facilitating the determination of whether said [if the]recalculated score qualifies said one of the buyer entities for an on-going incentive.

19. (Amended) The method as defined in claim 17, further comprising: recalculating the incentive determined in said [incentive providing step]offering or facilitating the offering step by applying said recalculated score of said one of the buyer entities to [the]an incentive function.

20. (Amended) The method as defined in claim 17, further comprising: providing a plurality of said incentives from different third party advertisers to one of the buyer entities[, including the steps of] by determining the sequence or the relative prominence in which [of]each of the [plurality of the incentive awards]third party advertiser incentives is communicated to the buyer entity based on said recalculated score.

21. (Amended) The method as defined in claim 20, wherein the [plurality of]incentives are provided across a plurality of distribution channels.

22. (Amended) The method as defined in claim 13, further comprising[the steps of]:

weighting questions based on scores of said buyer [entity]entities;

selecting questions, based, at least in part, on the weight given the question;

sending questionnaires electronically to a plurality of said buyer entities; and

receiving responses to the questionnaire from a plurality of said buyer entities;

[weighting said responses from at least one of said buyer entities;]and

recalculating at least one score for the at least one buyer entity based on said [weighted]responses.

23. (Amended) The method as defined in claim 22, further comprising:

determining if the recalculated score qualifies said one of the buyer entities for an on-going incentive.

24. (Amended) The method as defined in claim 22, further comprising: recalculating the incentive determined in said [incentive providing step] offering or facilitating the offering step by applying said recalculated score of said one of the buyer entities to [the] an incentive function.

25. (Amended) The method as defined in claim 22, further comprising: providing a plurality of the [said] incentives from different third party advertisers to one of the buyer entities[, including the steps of] by determining the sequence or the relative prominence of each of [the]a plurality of the [incentive awards]incentives based on said recalculated score.

26. (Amended) The method as defined in claim 25, wherein the [plurality of]incentives are provided across a plurality of distribution channels.

27. (Amended) The method as defined in claim 13 wherein said receiving step further includes:

obtaining permission from at least one of the buyer entities to supplement the data with additional information associated with the buyer entity from a third party information broker; and wherein said storing includes storing said additional information; and wherein said offering or facilitating the offering of the incentive is based on terms being, all other things equal, superior to terms on which an incentive associated with the same third party advertiser is offered to another buyer entity similar to the buyer entity, which did not provide said additional information[comprising: obtaining non-purchase information about one of the buyer entities from third party; and recalculating at least one score of said one of said buyer entities based on the non-purchase information].

28. (Amended) The method as defined in claim 27, wherein said [non-purchase]additional information is demographic information.
29. (Amended) The method as defined in claim 27, further comprising: receiving an authorization from said one of the buyer entities as a threshold requirement to either performing the obtaining [non-purchase]additional information or as a threshold requirement to entering said additional information into a database or using said additional information to change a plurality of scores.
30. (Amended) The method as defined in claim 27, further comprising: determining if the changed [recalculated] score qualifies said one of the buyer entities for an on-going incentive.
31. (Amended) The method as defined in claim 27, further comprising: recalculating the incentive determined in said [incentive providing step]offering or facilitating the offering step by applying [said] a recalculated score of [said] one of the buyer entities to [the]an incentive function.
32. (Amended) The method as defined in claim 27, further comprising: providing a plurality of said incentives from different third party advertisers to one of the buyer entities[, including the steps of]by determining the sequence or the relative prominence of each of [the]a plurality of the incentives[incentive awards] based on a [said]recalculated score.
33. (Amended) The method as defined in claim 27, wherein the [plurality of] incentives are provided across a plurality of distribution channels.
34. (Amended) The method as defined in claim 13, wherein at least one category is an individual company, and wherein said[the] score for that category is calculated based on the amount of purchases indicated by said [proof of]purchase records or information verifiably derived therefrom for said individual company.
35. (Amended) The method as defined in claim 13, further comprising: [the step of]sending at least one score of a particular one of said buyer entities to a third party after receipt of an authorization from said particular buyer entity.

36. (Amended) The method as defined in claim 13, further comprising storing electronically at least one score for a buyer entity at a computer for said buyer entity.

41. (Amended) The method as defined in claim 13, further comprising [the step of] calculating a fee based on the scores of the buyer entities[provided the incentive].

42. (Amended) The method as defined in claim 13, further comprising: [the step of]

receiving additional information on whether one of the buyer entities made at least one follow-up purchase or co-purchase contemporaneous with or after making an incentive purchase, [accepting an incentive;] and recalculating the score for said one of the buyer entities [with additional points provided for making the purchase after accepting the incentive]based on the additional information.

44. (Amended) The method as defined in claim 42, further comprising:

recalculating the incentive [determined in said incentive providing step] by applying said recalculated score of said one of the buyer entities to [the] an incentive function or algorithm.

45. (Amended) The method as defined in claim 42, further comprising:

providing a plurality of said incentives from different advertisers to one of the buyer entities[, including the steps of] by determining the sequence or the relative prominence of each of the plurality of [the] incentives [awards] based on said recalculated score.

47. (Amended) The method as defined in claim 13, further comprising: [the steps of;]

receiving additional information on whether one of the buyer entities accepted the incentive; and

recalculating at least one of the scores for one of the buyer entities based on the [buyer entity accepting the incentive] the additional information.

49. (Amended) The method as defined in claim 47, further comprising:

recalculating the incentive [determined in said incentive providing step]by applying said recalculated score of said one of the buyer entities to [the] an incentive function or algorithm.

50. (Amended) The method as defined in claim 47, further comprising:
providing a plurality of said incentives from different advertisers to one of the buyer entities[, including the steps of] by determining the sequence or the relative prominence of each of the plurality of the incentives [awards] based on said recalculated score.

52. (Amended) The method as defined in claim 13, comprising:
receiving additional information that one of the buyer entities visited a predetermined web site; and recalculating one of the scores of said one of the buyer entities to increase the score based on [this visit] additional information.

54. (Amended) The method as defined in claim 52, further comprising:
recalculating the incentive [determined in said incentive providing step]by applying said recalculated score of said one of the buyer entities to [the]an incentive function or algorithm.

55. (Amended) The method as defined in claim 52, further comprising:
providing a plurality of said incentives from different advertisers to one of the buyer entities[, including the steps of] by determining the sequence or the relative prominence of each of the plurality of the incentives [awards] based on said recalculated score.

57. (Amended) The method as defined in claim 13, wherein said [providing an incentive]offering or facilitating the offering step comprises determining an incentive wherein a type and/or amount of the incentive is selected for the buyer entity by applying said score of said buyer entity to an incentive function.

58. (Amended) The method as defined in claim 1, wherein said [providing an incentive] offering or facilitating the offering step comprises determining an incentive

within an incentive structure wherein a type or amount of incentive is provided to the buyer entity based on an electronic input from the buyer entity.

59. (Amended) The method as defined in claim 1, wherein said [providing an incentive]offering or facilitating the offering step comprises determining an incentive from within an incentive structure wherein a type or amount of incentive is provided to the buyer entity based on the buyer entity meeting predetermined search criteria.

60. (Amended) The method as defined in claim 1, wherein [the providing an incentive step comprises selecting] the incentive is selected based on a first criteria of purchasing of a particular good or service, and a second criteria of a minimum number of different instances when the particular good or service was purchased in a predetermined time period.

61. (Amended) The method as defined in claim 1, further comprising: [wherein the providing an incentive step comprises]

setting the incentive based on a first criteria of purchasing of a particular good or service, and a second criteria of a minimum monetary value purchased of the particular good or service purchased in a predetermined time period.

62. (Amended) The method as defined in claim 1, further comprising: [the step of]

obtaining permission from the buyer entity for linking to a third party database and inputting additional information therefrom on purchases of the buyer entity or for otherwise obtaining additional information from at least one third party on the buyer entity purchases,

linking to [a] the third party database and inputting the additional information therefrom on [whether the buyer entity] the purchases of the same buyer entity or otherwise obtaining additional information from said at least one third party on the buyer entity purchases, [made a follow up purchase or a co purchase contemporaneous with or after accepting the incentive]and

inputting [this] the additional information [to the database].

63. (Amended) The method as defined in claim 1, wherein said [providing an incentive]offering or facilitating the offering step comprises including a cookie with the incentive, with said cookie designed to monitor predetermined activity relating to said incentive.

64. (Amended) The method as defined in claim 1, further comprising: [the step of]

submitting a request to one of said buyer entities to provide a rating of a product or service item only if the purchase record or the information verifiably derived therefrom indicates that [of the buyer entity shows] a purchase of the product or service item to be rated has been or might have been made.

64. (Amended) The method as defined in claim 64, further comprising[the steps of]:

weighting each entity submitted rating for a product or service item according to the money spent on the particular product or service item by the entity; and

creating an average rating for the product or service item based on the weighted entity submitted ratings.

66. (Amended) The method as defined in claim 1, further comprising the step of calculating a charge for providing the incentive based on the size of [the]a group of buyer entities resulting from [the]a search of the stored data.

67. (Amended) The method as defined in claim 1, further comprising the step of calculating a charge for providing incentives based on a number of elements in [the] search criteria provided by a third party advertiser.

68. (Amended) The method as defined in claim 13, further comprising the step of calculating a charge for providing the incentive based on both the size of [the]a group of buyer entities resulting from [the]a search of the stored data and the scores of the buyer entities.

69. (Amended) The method as defined in claim 1, further comprising: [the step of]

comparing a source of the third party proof of purchase records or the information verifiably derived therefrom with a source database of third parties and [entering only those] storing the proof of purchase records or the information verifiably derived therefrom if from third party sources that are in the source database.

70. (Amended) The method as defined in claim 1, further comprising: [the step of]

obtaining permission from a buyer entity to enter into a database additional information from the purchase records or the information verifiably derived therefrom pertaining only to at least one category of purchases, categorizing purchases relative to an additional database of the categories, and [entering] storing only purchases within [selected]said at least one category[ies]y.

71. (Amended) The method as defined in claim 1, wherein said [entering]making or helping make a decision step further comprises the categorization of purchases listed from a plurality of independent third [parties]party merchants in the proof of purchase records or information verifiably derived therefrom based on a set of categories;

calculating or facilitating the calculation of a separate score for [a buyer entity]one of the buyer entities in each of a plurality of categories based on the amount purchased by the buyer entity in the respective category; and

recording at least one of said scores in a cookie on a buyer entity computer that may be accessed from a communications network by at least one merchant.

74. (Amended) The method as defined in claim 1, further comprising[the steps of]:

adding the purchase amounts for the buyer entity over a first period of time made from a first merchant to obtain a first merchant purchase amount;

determining if the first merchant purchase amount exceed a threshold value; and

rewarding the buyer entity for having exceeded the threshold value of purchases.

78. (Amended) The method as defined in claim 76, further comprising: recalculating the incentive determined in said [incentive providing]offering or facilitating

the offering step by applying said recalculated score of said one of the buyer entities to [the]an incentive function.

80. (Amended) The method as defined in claim 1, further comprising monitoring the receiver of an interactive television to determine if an ad is shown by the receiver and has not been zapped by the buyer entity; and [providing an incentive]offering or facilitating the offering reward to the buyer entity if the ad has not been zapped.

82. (Amended) The method as defined in claim 10, further comprising monitoring the receiver of an interactive television to determine if an ad has been zapped; and [providing an incentive]offering or facilitating the offering based to the buyer entity if the ad has not been zapped with the incentive determined in accordance with at least one of the scores of the buyer entity.

94. (Amended) A method for buyer-driven targeting [comprising the steps of] by a system comprising:

a first component for[separately] receiving directly or indirectly from each of a plurality of buyer entities [a] at least one respective third party [proof of] purchase record or information verifiably derived therefrom, said purchase record or information verifiably derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system;

[a second component for entering information contained in the received proof of purchase records into a searchable electronic database;

a third component for obtaining search criteria for the database;

a fourth component for searching the information in the database based on the search criteria to obtain a group of buyer entities; and

a fifth component for providing an incentive to each of a plurality of the buyer entities in said group.]

a second component for storing information associated with said data;

for a plurality of product or service items offered for sale, wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, and

wherein said manufacture, marketing, distribution or provision is not carried out by said system in the ordinary course of business, a third component for making or helping make with respect to at least one of said buyer entities, based at least in part on said data, at least one discriminatory decision associated with the offering of at least one from among a plurality of different preferential contingent incentives, with each incentive associated with at least one of said items and associated with at least one of said third party advertisers, wherein there is at least one different preferential contingent incentive from each of the plurality of said different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a possible purchase of at least one of said items, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said discriminatory decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored data relating to purchases made by said buyer entity with merchants other than the third party advertiser that is associated with the incentive; and

a fourth component for offering or facilitating the offering of at least one of said preferential contingent incentives to said buyer entity, without having transferred to said third party advertiser directly or indirectly any full name associated with said buyer entity at the time that said incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that said system has received directly or indirectly from that buyer entity said at least one respective third party purchase record or information verifiably derived therefrom.

95. (Amended) The system as defined in claim 94, wherein said fifth component [providing an incentive]making or helping make a decision step comprises a component for setting the incentive for each buyer entity in [the]a group based on its purchases of a particular product or service item.

96. (Amended) The system as defined in claim 94, wherein a plurality of the buyer entities are individual persons.

98. (Amended) The system as defined in claim 94, further comprising:

a component receiving buyer entity preferences for categories of third [parties]party merchants;

wherein said third component for making or helping make a decision step[obtaining search criteria] includes a component for receiving a merchant category designation for the third party advertiser[: and

wherein said fourth component for searching comprises] a component for forming [the]a group of only buyer entities who have indicated in their respective buyer entity preferences that they would receive a marketing incentive from third [parties]party advertisers in the merchant category designation.

99. (Amended) The system as defined in claim 94, further comprising:
a component for receiving a threshold value from the buyer entity that an incentive must meet before the buyer entity will receive the incentive;
a component for receiving a value for the incentive to be provided; and
wherein said fourth component for[searching]making or helping make at least one decision step includes a component for comparing the value of the incentive to the threshold value set by the buyer entity and a component for not including that buyer entity in [the] a group if the buyer entity has set a threshold value for the incentive which is not exceeded.

100. (Amended) The system as defined in claim 94, further comprising
a component for acceptance obtaining information on whether one of the buyer entities accepted the incentive; and
a component for [inputting this]storing the acceptance information to [the]a database.

101. (Amended) The system as defined in claim 100, further comprising a component for obtaining additional information on whether the buyer entity made a follow-up purchase or a co-purchase contemporaneous with or after accepting the incentive and inputting [this]the additional information to be stored[the purchase record of the buyer entity in the database].

102. (Amended) The system as defined in claim 94, wherein said second component for [entering]making or helping make a decision step further comprises a

component for categorizing purchases listed from a plurality of independent third [parties]party merchants in the proof of purchase records based on a set of categories.

104. (Amended) The system as defined in claim 102, further comprising:
a component for calculating or facilitating the calculation of a separate score for one of the buyer entities [for a buyer entity in each of a plurality of categories based on the amount purchased]in at least one of the categories based on purchase data associated with purchases by the buyer entity in the respective category;
a component for calculating or facilitating the calculation of a composite score for a particular buyer entity in accordance with a function of the separate scores for a plurality of selected categories for the particular buyer entity; and
a component for creating a group of buyer entities based on said composite scores.

107. (Amended) The system as defined in claim 103, further comprising:
a component substantially continuously receiving additional [proof of]purchase records or information verifiably derived therefrom for one of the buyer entities from a plurality of different payment or merchant accounts; and

a component for recalculating or facilitating the recalculation of at least one of said scores [said]of one of said buyer entities based on the additional [proof of]purchase records or information verifiably derived therefrom.

108. (Amended) The system as defined in claim 107, further comprising:

[A]a component for determining or facilitating the determination of whether said [if the]recalculated score qualifies said one of the buyer entities for an on-going incentive.

109. (Amended) The system as defined in claim 107, further comprising: a component for recalculating the incentive determined in said [fifth]offering or facilitating the offering component by applying said recalculated score of said one of the buyer entities to an incentive function.

110. (Amended) The system as defined in claim 107, further comprising: a component for providing a plurality of said incentives from different third party advertisers to one of the buyer entities, including a component for determining the

sequence or the relative prominence of each [of]in which each of a [the] plurality of the third party advertiser incentives[incentive awards] is communicated to the buyer entity based on said recalculated score.

113. (Amended) The system as defined in claim 112, further comprising:

a component for determining if the recalculated score qualifies said one of the buyer entities for an on-going incentive.

114. (Amended) The system as defined in claim 112, further comprising: a component for recalculating the incentive determined in said [incentive providing]offering or facilitating the offering component by applying said recalculated score of said one of the buyer entities to [the]an incentive function.

121. (Amended) The system as defined in claim 117, further comprising: a component for recalculating the incentive determined by the [incentive providing]offering or facilitating the offering component by applying said recalculated score of said one of the buyer entities to [the]an incentive function.

130. (Amended) The system as defined in claim 129, wherein said indication comprises [providing an incentive]offering or facilitating the offering to a buyer entity with a recalculated score that exceeds the threshold but the score of the buyer entity before recalculation did not exceed the threshold.

134. (Amended) The system as defined in claim 132, further comprising: a component for recalculating the incentive determined in said [incentive providing]offering or facilitating the offering component by applying said recalculated score of said one of the buyer entities to [the]an incentive function.

139. (Amended) The system as defined in claim 137, further comprising: a component for recalculating the incentive determined in said [incentive providing]offering or facilitating the offering component by applying said recalculated score of said one of the buyer entities to [the]an incentive function.

144. (Amended) The system as defined in claim 142, further comprising: recalculating the incentive determined in said [incentive providing]offering or facilitating the offering component by applying said recalculated score of said one of the buyer entities to [the]an incentive function.

147. (Amended) The system as defined in claim 103, wherein said [providing an incentive]offering or facilitating the offering component comprises a component for determining an incentive wherein a type and/or amount of the incentive is selected for the buyer entity by applying said score of said buyer entity to an incentive function.

148. (Amended) The system as defined in claim 94, wherein said [providing an incentive]offering or facilitating the offering component comprises a component for determining an incentive within an incentive structure wherein a type or amount of incentive is provided to the buyer entity based on an electronic input from the buyer entity.

149. (Amended) The system as defined in claim 94, wherein said [providing an incentive]offering or facilitating the offering component comprises a component for determining an incentive from within an incentive structure wherein a type or amount of incentive is provided to the buyer entity based on the buyer entity meeting predetermined search criteria.

150. (Amended) The system as defined in claim 94, wherein the [providing an incentive]offering or facilitating the offering component comprises a component for selecting the incentive based on a first criteria of purchasing of a particular good or service, and a second criteria of a minimum number of different instances when the particular good or service was purchased in a predetermined time period.

151. (Amended) The system as defined in claim 94, wherein the [providing an incentive]offering or facilitating the offering component comprises a component for setting the incentive based on a first criteria of purchasing of a particular good or service, and a second criteria of a minimum monetary value purchased of the particular good or service purchased in a predetermined time period.

153. (Amended) The system as defined in claim 94, wherein said [providing an incentive]offering or facilitating the offering component comprises including a cookie with the incentive, with said cookie designed to monitor predetermined activity relating to said incentive.

156. (Amended) The system as defined in claim 94, further comprising a component for calculating a charge for providing the incentive based on the size of [the]a group of buyer entities resulting from [the]a search of the stored data.

157. (Amended) The system as defined in claim 94, further comprising a component for calculating a charge for providing incentives based on a number of elements in [the] search criteria provided by a third party advertiser.

158. (Amended) The system as defined in claim 103, further comprising a component for calculating a charge for providing the incentive based on both the size of [the]a group of buyer entities resulting from [the]a search of the stored data and the scores of the buyer entities.

159. (Amended) The system as defined in claim 94, further comprising a component for comparing a source of the third party proof of purchase records with a source database of third parties and [entering]storing only those proof of purchase records if from third party sources that are in the source database.

160. (Amended) The system as defined in claim 94, further comprising a component for categorizing purchases relative to a database of categories and [entering]storing only purchases within selected categories.

161. (Amended) The system as defined in claim 94, wherein said [entering]making or helping make a decision component further comprises a component for categorizing of purchases listed from a plurality of independent third parties in the proof of purchase records based on a set of categories;

a component for calculating a separate score for a buyer entity in each of a plurality of categories based on the amount purchased by the buyer entity in the respective category; and

a component for recording at least one of said scores in a cookie on a buyer entity computer that may be accessed from a communications network by at least one merchant.

168. (Amended) The system as defined in claim 166, further comprising: a component for recalculating the incentive determined in said [incentive providing]offering or facilitating the offering component by applying said recalculated score of said one of the buyer entities to [the]an incentive function.

170. (Amended) The system as defined in claim 94, further comprising a component for monitoring the receiver of an interactive television to determine if an ad is shown by the receiver and has not been zapped by the buyer entity; and [providing an incentive]offering or facilitating the offering reward to the buyer entity if the ad has not been zapped.

172. (Amended) The system as defined in claim 103, further comprising a component for monitoring the receiver of an interactive television to determine if an ad has been zapped; and [providing an incentive]offering or facilitating the offering based to the buyer entity if the ad has not been zapped with the incentive determined in accordance with at least one of the scores of the buyer entity.